

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y
★ JUN 07 2016 ★
LONG ISLAND OFFICE

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KUM KHWAI LUO LEONG, aka Michelle Leong, on
behalf of herself and others similarly situated,

Plaintiff,

ORDER

-against-

CV 15-5080

UTOPIA HOME CARE, INC.
d/b/a Utopia Home Care,
UTOPIA COMPANION SERVICES, INC.,
d/b/a Utopia Home Care,
MANUEL F. MARTINEZ,
ANGELINA MARTINEZ,
DAVID MARTINEZ and
DIANE MARTINEZ,

(Wexler, J.)

Defendants.

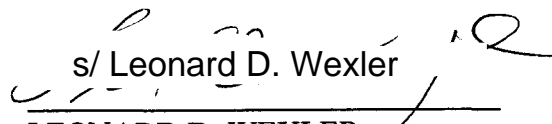
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Before the Court is Defendants' motion to dismiss Plaintiff's Complaint, filed on February 12, 2016. In her opposition to the motion, however, Plaintiff now requests leave to amend her Complaint, pursuant to Federal Rule of Civil Procedure 15(a). Defendants' Reply Memorandum of Law makes no mention of Plaintiff's request. The Court construes this to mean that Defendants do not oppose the amendment.

Given that Plaintiff could have amended her Complaint as of right within twenty-one days after being served with the Defendants' motion to dismiss, see Fed. R. Civ. P. 15(a)(1)(B), the lack of any opposition by Defendants, and that allowing amendment at this stage does not appear to prejudice Defendants in any way, Plaintiff's request is granted. Plaintiff shall file her Amended Complaint within ten days of this Order.

With respect to Defendants' pending motion to dismiss, the motion is denied, without prejudice to renewal. Should Defendants seek to dismiss the Amended Complaint, the parties are directed to file a proposed briefing schedule for Court approval within two weeks of the filing of the Amended Complaint.

SO ORDERED:

Dated: Central Islip, New York
June 7, 2016


s/ Leonard D. Wexler

LEONARD D. WEXLER
United States District Judge